



# House of Representatives

General Assembly

**File No. 491**

January Session, 2011

Substitute House Bill No. 6507

*House of Representatives, April 7, 2011*

The Committee on Environment reported through REP. ROY of the 119th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING WATER QUALITY CERTIFICATION APPLICATIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective from passage*) Any person who submits an
- 2 application to the Commissioner of Environmental Protection for a
- 3 water quality certification pursuant to Section 401 of the federal Water
- 4 Pollution Control Act shall publish notice of such application in
- 5 accordance with the provisions of section 22a-6g of the general
- 6 statutes. Not later than thirty days prior to approving or denying such
- 7 application, the commissioner shall publish notice of the
- 8 commissioner's tentative determination on such application in
- 9 accordance with section 22a-6h of the general statutes. Not later than
- 10 thirty days after publication of such notice of tentative determination,
- 11 such applicant may request, in writing, the commissioner to hold a
- 12 hearing on such application in accordance with the provisions of
- 13 chapter 54 of the general statutes. The commissioner shall grant such
- 14 request provided such request is filed in writing in a timely manner.

- 15 Any person who is aggrieved by the commissioner's final decision on  
16 such application may appeal such decision to the Superior Court in  
17 accordance with section 4-183 of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

**ENV**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Department of Environmental Protection	GF - Potential Cost	Less than 5,000	Less than 5,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill may result in a cost to the Department of Environmental Protection (DEP) anticipated to be less than \$5,000 in both FY 12 and 13 resulting from additional publication of notices and from holding public hearings.

The bill could also result in additional hearings before the court. It is anticipated that the number of hearings would be minimal, and would not result in costs to the Judicial Department.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of additional notices published and public hearings held.

**OLR Bill Analysis****sHB 6507*****AN ACT CONCERNING WATER QUALITY CERTIFICATION APPLICATIONS.*****SUMMARY:**

This bill requires any person submitting an application to the Department of Environmental Protection (DEP) commissioner for a water quality certification pursuant to section 401 of the federal Water Pollution Control Act, to publish notice of the application according to law.

It also (1) requires the commissioner to publish notice of the application's tentative determination at least 30 days prior to approving or denying the application and (2) allows an applicant to request a hearing up to 30 days after such notice's publication. The commissioner must grant the request if it is in writing and timely filed. Any party aggrieved by the commissioner's final decision may appeal to Superior Court.

EFFECTIVE DATE: Upon passage

**BACKGROUND*****Water Pollution Control Act***

The Water Pollution Control Act (33 USC § 1251 *et seq.*), popularly known as the "Clean Water Act," is aimed at restoring and maintaining the chemical, physical, and biological integrity of the nation's waters. Under the act, applicants for certain federal licenses or permits must provide a certification from the state that the proposed activity is consistent with its water quality standards.

***Notice Requirements***

Existing law requires an applicant for a permit pursuant to section

401 of the federal Water Pollution Control Act to provide newspaper notice of the application and notify the chief elected official of the municipality where the activity is proposed. The notice must include the (1) applicant's name and address; (2) type of permit sought; (3) activity description; and (4) location of the activity and any natural resources affected, among other things. The applicant must provide the DEP commissioner with a certified copy of the notice. Applications for authorization under a general permit are exempt (CGS § 22a-6g).

The DEP commissioner's tentative determination on the application must be published in the newspaper and provided to the chief elected official of the municipality where the activity is proposed. This notice must include the (1) applicant's name and address; (2) proposed activity's address and any natural resources affected; (3) application number; (4) type of permit sought and tentative determination; and (5) opportunities for public participation, among other things (CGS § 22a-6h).

### **COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 24 Nay 1 (03/21/2011)